

MEMORANDUM

July 20, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: PETERSON & BRADFORD
Richard Berberian, Esq.

BRIAN T. CHU
Senior Deputy County Counsel
General Litigation Division

RE: Regina Reeves v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. PC036311

DATE OF
INCIDENT: April 25, 2004

AUTHORITY
REQUESTED: \$50,000

COUNTY
DEPARTMENT: Department of Parks and Recreation

CLAIMS BOARD ACTION:




Approve





Disapprove



Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on August 21, 2006

SUMMARY

This is a recommendation to settle for \$50,000 the lawsuit brought by Regina Reeves seeking damages for injuries she received on April 25, 2004, when she fell on a concrete walkway in El Cariso Park, in Sylmar.

LEGAL PRINCIPLE

The County may be held liable for damages caused or contributed to by a dangerous condition of public property.

SUMMARY OF FACTS

On April 25, 2004, at approximately 4:00 p.m., Mrs. Reeves was walking on a concrete walkway in El Cariso Park. El Cariso Park is a County park that is supervised by County employees. Azteca Landscape, Inc., ("Azteca") has a contract with the County to perform groundskeeping services at El Cariso Park, including conducting inspections and reporting unsafe conditions.

Mrs. Reeves tripped against the raised edge of a concrete walkway section, and allegedly fell on her head and hands. She was transported by ambulance to a hospital. She claims to have neck and back pain, numbness to her hands and arm pain as result of the incident.

The section of the walkway over which Mrs. Reeves tripped measured approximately four feet by four feet and was displaced from an adjacent concrete section by one-half to two inches in height. There were, however, no reports from either the public or Azteca concerning the condition of the concrete walkway, nor any prior reports of injuries caused by the condition.

Mrs. Reeves contends that the uneven section of concrete walkway existed in a dangerous condition, because it presented a tripping hazard of which the County knew or should have known through a reasonable inspection. She also contends that Azteca negligently performed its groundskeeping duties.

DAMAGES

Mrs. Reeves claims damages for medical services and treatment, which included a spinal discectomy and fusion of a portion of her back in January, 2006. The cost of medical services approximates \$100,000, which has been paid through Mrs. Reeves' health insurance carrier. She has been on full disability status since January 19, 2005. She claims loss of past and future income at the rate of her annual salary of \$33,432.

Should this matter proceed to trial, we anticipate Mrs. Reeves will offer evidence of damages as follows:

Past medical treatment & therapy	\$100,000
Past loss of earnings	\$ 44,238
Future loss of earnings	\$233,289
Pain and suffering	<u>\$200,000</u>
TOTAL	<u>\$577,527</u>

STATUS OF CASE

In addition to suing the County, Mrs. Reeves sued Azteca, alleging general negligence. The County also sued Azteca, on a cross-complaint, alleging contractual indemnity. Azteca was granted a summary judgment against Mrs. Reeves' complaint based upon the absence of a duty.

Approval of the proposed settlement contemplates the County dismissing its cross-complaint against Azteca, in exchange for a waiver of its costs. If the County were to continue to pursue indemnity against Azteca, depositions of approximately six employees of the County and Azteca are anticipated. The County will also expend additional fees and costs for trial preparation.

Expenses incurred by the County in defense of this matter are attorneys' fees of \$22,084 and costs of \$7,999 in cost. These expenses reflect a significant amount of work to determine Mrs. Reeves' post-surgical condition and in the prosecution of the County's cross-complaint against Azteca.

EVALUATION

The physical condition of the concrete walkway is uncontested and can arguably be characterized as a dangerous condition. While it is unclear precisely where Mrs. Reeves tripped along the walkway section, a jury may find that it was at the highest differential point and that the uneven walkway created a significant risk of a tripping injury. The County contends that the condition was open and obvious and that Mrs. Reeves had a pre-existing degenerative spinal condition. However, if a fact finder determines that a dangerous condition existed, the County's contentions will only mitigate liability and damages. A settlement with Mrs. Reeves at this time will avoid further litigation costs and a potential jury verdict in excess of the recommended settlement amount.

Further pursuit of contractual indemnity against Azteca may not result in an outcome that would justify the additional cost. Azteca may argue that its services did not encompass an inspection of El Cariso Park and that County employees were responsible for and actually conducted the necessary inspections of the concrete walkway. A jury may split the liability between the County and Azteca, and the additional cost in pursuing contractual indemnity may exceed the County's potential award.

RECOMMENDATION

We join with our third party administrator, Carl Warren and Company, and our private counsel, Peterson and Bradford, in recommending a settlement of this matter in the amount of \$50,000, and dismissal of the County's cross-complaint in exchange for a cost waiver. The Department of Parks and Recreation concurs in the recommendation.

APPROVED:


RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

RLR:ac

MEMORANDUM

August 1, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: COLLINS, COLLINS, MUIR & STEWART LLP
John Collins, Esq.

BRIAN T. CHU
Senior Deputy County Counsel
General Litigation Division

RE: Deanna Sprinkel, Sean Sprinkel, and Evelyn Sprinkel through her
Guardian Ad Litem Deanna Sprinkel v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. GC034916

DATE OF
INCIDENT: November 28, 2004

AUTHORITY
REQUESTED: \$2,500,000

COUNTY
DEPARTMENT: Department of Parks and Recreation

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☒


Recommend to Board of
Supervisors for Approval


ROCKY A. ARMFIELD

, Chief Administrative Office


JOHN F. KRATTLI

, County Counsel


MARIA M. OMS

, Auditor-Controller

on August 21, 2006

SUMMARY

This is a recommendation to settle for \$2,500,000 the lawsuit brought by Deanna Sprinkel, Sean Sprinkel, and Evelyn Sprinkel, through her Guardian Ad Litem, Deanna Sprinkel, seeking damages for personal and emotional injuries sustained in a motor vehicle accident with an employee of the Department of Parks and Recreation on November 28, 2004.

LEGAL PRINCIPLE

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

Deanna Sprinkel was seriously injured while visiting the Los Angeles County Arboretum when a County tram collided into her as she was kneeling at the edge of an asphalt roadway feeding her one-year-old daughter, Evelyn Sprinkel, who was seated in a stroller. At the time of the collision, the tram driver was driving slowly between five and eight miles per hour, but he failed to see either Ms. Sprinkel or the baby stroller on the side of the roadway. Unfortunately, the driver did not realize that he had hit Ms. Sprinkel until witnesses on the tram told him to stop. As a result, Ms. Sprinkel was dragged for twenty-five to thirty feet under the tram. While it is unclear whether the tram actually struck the baby stroller, Evelyn Sprinkel was not injured. At the time of the accident, Ms. Sprinkel's husband, Sean Sprinkel, was nearby and saw his wife being dragged by the tram.

DAMAGES

Ms. Sprinkel sustained serious knee and back injuries. She has undergone three surgeries to her knee, and may need two to three knee replacements in the future. She has been diagnosed with arthrofibrosis, which is an overproduction of scar tissue, and Reflex Sympathetic Dystrophy, which is a condition that causes pain, swelling and sensitivity to touch. She also sustained a compression fracture to her lower back. Because of her injuries, Ms. Sprinkel may not be able to return to her former occupation as a finance assistant. Mr. Sprinkel claims he suffered serious emotional distress as a result of seeing his wife being dragged by the tram.

Should this matter proceed to trial, Ms. Sprinkel is anticipated to offer evidence of damages as follows:

Past medical expenses	\$ 170,000
Future loss of earning capacity (PV)	\$ 1,166,121
Pain and suffering	\$ 3,000,000
Future vocational training	\$ 10,276
Future medical expenses	\$ <u>150,000</u>
TOTAL	\$ <u>4,496,397</u>

We anticipate that Mr. Sprinkel and Evelyn Sprinkel will offer evidence of damages as follows:

Past counseling expenses	
(Sean Sprinkel)	\$ 1,856
Emotional distress damages	\$ 500,000
Past medical expenses	
(Evelyn Sprinkel)	\$ <u>89</u>
TOTAL	\$ <u>501,945</u>

STATUS OF CASE

This case was mediated on April 24, 2006, however, it did not result in settlement. On May 1, 2006, we advised the Board of Supervisors of the Sprinkel's settlement demand of \$3,200,000. Further discovery and negotiation by the County's defense attorneys with the Sprinkel's attorney resulted in the proposed settlement amount with an allocation as follows:

Deanna Sprinkel:	\$ 2,395,000
Sean Sprinkel:	\$ 100,000
Evelyn Sprinkel	\$ <u>5,000</u>
TOTAL	\$ 2,500,000

The Sprinkels intend to have the settlement proceeds placed in a structured account with a County-approved structured settlement company. The trial date for this case was vacated to allow for action on this proposed settlement.

Approximate expenses incurred by the County in defense of this matter are attorneys' fees of \$27,321 and costs of \$12,166. These expenses include depositions, consultation with an accident reconstruction expert and economist to evaluate the value of this case, and legal research to determine the potential verdict award.

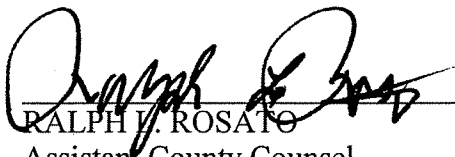
EVALUATION

This is a case of undisputed liability. The County tram driver, who was 86 years old at the time of the accident, failed to see Ms. Sprinkel and the baby stroller at the edge of the roadway. Incidentally, this was the tram driver's last day of work before retiring. A jury will likely find that the tram driver was driving inattentively and should have exercised greater caution having due regard for the visibility of the road and the fact that pedestrians may encroach into the arboretum roadways. The likelihood of continued pain and suffering is high because of the probable future knee replacement surgeries, and scar tissue revision, and neurological complications. Defense medical experts also substantially concur with the treating physicians' prognoses for future treatment. A jury may also find that Mr. Sprinkel suffered significant emotional distress for having seen his wife being dragged under the tram. A reasonable settlement of this action at this time, however, will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

RECOMMENDATION

We join with our third party administrator, Carl Warren and Company, and our private counsel, Collins, Collins, Muir and Stewart, in recommending a settlement of this matter in the amount of \$2,500,000. The Department of Parks and Recreation concurs in this settlement recommendation.

APPROVED:



RALPH E. ROSATO
Assistant County Counsel
General Litigation Division

RLR:bh